

STATEMENT OF LLOYD C. OWNBEY, JR.

I am the General Counsel of the Jockeys' Guild and have had that position since June of 2001. At the same time I continue to maintain a separate office and have a full labor-employment law practice including litigation and appellate work. The company firm preceding me in that capacity is the law firm of Kennedy Schwartz & Case of New York city.

I appear by invitation of this committee as a witness and not as the Guild's lawyer. The legal representatives for the Guild at the hearing are Lawrence Mentz of New York and Stanley Brand of District of Columbia.

Dr. Gertmenian asked me to act as a point person to gather the documents requested and to deliver them to the committee. Responding to the requests and the subpoena has been extremely difficult for historical reasons. Dr. Gertmenian had been told by two board members that the prior chief executive of the Guild had been accused of many of the same charges that other jockeys have subsequently asserted against Dr. Gertmenian. As a reasonable precaution, the Guild's Board of Directors in June 2001 terminated all of the staff and the Matrix team secured access to the Guild's office. The accounting system that had been purchased had not been successfully operated and the books and records were in very bad shape. The long and short of it, the new leadership had to assume the current work while at the same time reconstructing the accounting system. In addition, the Guild's offices were moved from Kentucky to California.

Serving the jockeys community is an incredibly difficult task, particularly for such a small staff. The three member representatives are on the road full time, and the chief operating officer, Albert Fiss, is on the road about 70% of the time. Gevork Asatryan, the chief financial officer, has a huge workload without the assistance of a full-charge bookkeeper. The workload administrating the jockeys' health insurance, and providing for disabled jockeys is handled by only two administrative staff members who have an overwhelming workload. The remainder of the staff respond to the constant influx of telephone calls, faxes, and e-mails expressing the needs and emergencies of the Guild's members. The problem has been exasperated by the refusal of Churchill Downs Corp. to remit their share of the media rights money to the Guild.

I made the entire Guild staff, including Dr. Gertmenian and Mr. Fiss and the two successive chairmen of the board, available to the committee's staff. Under the staff's "rules", they were not permitted to have a witness present or make a tape recording of those interviews.

The staff has not provided written acknowledgment of any of the documents received to enable a coherent record of which documents were received, and the staff has not identified in writing which specific documents the staff believed required further reponse. Extended telephone calls are not an adequate substitute. The reason given for no response is that it becomes public record. That is their problem - not ours.

Many of the questions asked, in my opinion, were overly broad or vague or interfere with attorney-client privilege and attorney-client work product privileges, as well as unduly invading the privacy of the parties or individual jockeys. Much of the materials sought were not relevant to the investigation undertaken.

My August 31, 2005 letter singled out the majority attorney for criticism. I believe that it would be helpful for the committee to establish clear guidelines for its staff to follow, much like the committee has done for witnesses to this hearing.

In my considered opinion, Dr. Gertmenian and his staff have accomplished outstanding results. Those who have asserted that he and his staff are guilty of any wrongdoing are, in my opinion, wrong based on any charge of wrongdoing that I have been made aware of, including the documents I received and sent to the Committee. Some who have accused Dr. Gertmenian of wrongdoing were or are jockeys, and have done so for political reasons or to obtain control of the Guild and individual recognition. Some have a history of accusing every administration as corrupt, but when asked to produce evidence cannot do so. Some are simply confused or misled by others. On the other hand, there are critics of the current leadership, such as Jerry Baily who has been measured in his criticism and has been truthful as he understands the facts.

Churchill Downs' management has filed an action in federal court in Kentucky for the purpose of destroying the Guild as a union, or to get rid of its current management. In my opinion, that litigation will also be proven to be without merit, however, it

follows similar historical efforts of management generally to crush unionism which led to the remedial legislation in the Norris LaGuardia and the Taft-Hartley Act and its predecessors. Churchill Downs asserts it is not bound by these laws.

The unsafe and unhealthful conditions fostered by the industry are the worst of all sports and any industry with which I am familiar. The tracks by their action provide vivid, ugly proof that they simply don't care about these risks to the jockeys, and wish to continue to run their tracks like plantations in which they can assert unbridled power and control of all who work there. The Guild's concern today is that this committee will become part of the problem and not part of the solution to the egregious health and safety conditions fostered by track owners. I hope the Guild's concerns are not warranted.

The immediate single task that I would recommend is that this Congress undertake to establish minimum federal standards for workers' compensation in which all riders are protected from on-track injuries. It can be structured so that states can meet or exceed those standards as was done with OSHA. The cost should be borne by track owners who receive the gross revenues from on-track and off-track wagering. Do not be misled. The off-track betting constitutes at least 85% of all revenues earned from wagering. This is contrary to their claims that they cannot afford to provide adequate insurance. The tracks have destroyed an industry that was the number one spectator sport in America in 1972. Today, their stadiums and clubhouses are almost empty and, in my considered

judgment, this is the result of a host of bad management decisions, primarily in marketing.

Finally, I have on at least three occasions extended the invitation to staff and committee members in writing and five or six times orally to have a Guild representative guide you through any racetrack in the country to see in person the safety and health issues that need to be addressed. The first step should always be to reduce the frequency and severity of injuries to jockeys and other riders. Reduction of both will reduce the cost of risk protection. The committee instead has focused on the governance of the Guild and historic but improperly assigned risk protection.